



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: April 24, 2015

Date of Meeting: May 14, 2015

Submitted by: Pennichuck Corporation Chief Operating Officer Donald Ware

Department:

Time Required: 20 minutes

Speakers:

Background Info. Supplied: Yes: ☒ No: ☐

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment: ☐

Recognition/Resignation/
Retirement: ☐

Public Hearing: ☐

Old Business: ☒

New Business: ☐

Consent Agenda: ☐

Nonpublic: ☐

Other: ☐

TITLE OF ITEM

Pennichuck Water Works – Request for PILOT for Solar Project [Tabled at the 4/23/15 Town Council meeting]

DESCRIPTION OF ITEM

Pennichuck is requesting that the Town consider accepting a payment in lieu of taxes for a proposed 1 Megawatt Solar field that it is considering constructing in Merrimack.

REFERENCE (IF KNOWN)

RSA:

Warrant Article:

Charter Article:

Town Meeting:

Other:

N/A

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector: ☐

Grant Requirements: ☐

Easel: ☐

Joint Meeting: ☐

Special Seating: ☐

Other: ☐

Laptop: ☐

None: ☐

CONTACT INFORMATION

Name: **Donald Ware**

Address: **25 Manchester Street**

Phone Number: **603-913-2330**

Email Address: **donald.ware@pennichuck.com**

APPROVAL

Chairman Harrington stated a review of the Charter identified the Town Council does not need to approve the Bylaws. The recommendation was that #2 under Section 11 may not be necessary.

4. Pennichuck Water Works – Request for PILOT for Solar Project

Submitted by Pennichuck Corporation Chief Operating Officer Donald Ware

Pennichuck is requesting that the Town consider accepting a payment in lieu of taxes for a proposed 1 Megawatt Solar field that it is considering constructing in Merrimack.

Mr. Donald Ware, Chief Operating Officer, Pennichuck Corporation, commented three years ago one of the charges for the Board of Directors was to look at alternative sources of energy/sustainable sources of energy. In 2012 the potential of building a solar field was investigated. At that time, electrical costs were nearly twice what could be purchased off the grid. It was decided the time was not right to pursue this. Solar cells have gone from about 18% to 22% efficiency, cost of production has come down, and the Federal tax break is still good through December 31, 2016. It was decided the potential for constructing the solar field should be reviewed again to determine whether it is cost effective. Proposals were received from a number of vendors. Grant monies were also pursued through the Public Utilities Commission (PUC). The result was the offer of a \$375,000 grant. These solar cells are subject to a local property tax. The value of the field, with the land, is estimated at roughly \$3 million. Annual property taxes takes the project from being one where it would be beneficial to the customers out of the gate to negative to the customers.

State RSA allows the Town to consider payment in lieu of taxes for renewable energy projects. That being said, if the Town were to grant the request, it would also be required to treat other such requests similarly.

Mr. Ware commented what makes this project unique is its location. The land it sits on is watershed land, and development and watershed land are typically not compatible except for the fact the EPA and NHDES have recommended, in the pursuit of sustainable energy, the use of watershed land for solar cells. It is the one compatible development use for watershed land. The land is owned by Pennichuck, which helps keep the cost of the project competitive in terms of what the power purchase provider could provide on a 20 year basis.

Mr. Ware questioned whether there is any interest in the Town considering a pilot in order to make the cost to customers neutral out of the gate. The facility would produce roughly 25% of the power for Pennichuck Water Works. The need would be for a pilot at 15% of the valuation in order for the project to break even based on current pricing and with the \$375,000 grant.

Mr. Ware stated, unless traveling in a plane, the facility would not be visible. Town Manager Cabanel had asked about the percentage of customers that reside in Merrimack. There are 295 customers in Merrimack, the largest of which is Anheuser Busch. Of total revenue Merrimack accounts for 4.1% to Pennichuck Water Works, about 9.6% of the usage, and about 1.1% of the customers.

The Power Purchase Agreement is a 20-year agreement. Over time, this would result in a flat power price. This provides a stable platform for electricity for the customers for the next 20 years. It is a savings or cost avoidance that gets passed directly to the customers.

Mr. Ware reiterated this is a unique project and if another were to come in with a similar scope, they would have to acquire the land first, which would be significant. Additionally the project is unique in that it does not have to go through net metering. The water treatment plant would utilize 100% of the

1 power that is produced from the solar field. Also the Federal tax credits that would make this work are
2 going away December 31, 2016. The Federal tax credits are what helps the power purchase provider to
3 be able to produce the power at a price that becomes competitive.

4
5 From the Town's perspective it would result in this property going from current use to an industrial use,
6 which would bring in, depending upon the valuation, on the order of about an upfront payment of
7 approx. \$120,000 - \$121,000. Currently, on a pro rata basis, Pennichuck is paying about \$1,087/year. If
8 they were to pay 15% of what they believe the valuation would be it would equate to approx.
9 \$10,900/year in property taxes or a net increase to the Town of about \$9,800.

10
11 If someone else comes in with a similar project there is the risk of having to give that up as well.

12
13 Chairman Harrington stated her understanding if the Council accepts the proposal, all future solar will
14 have to abide by the decision the Council makes on this request. Mr. Ware stated that to be his
15 understanding from Pennichuck's attorneys.

16
17 Vice Chairman Mahon stated there to be two distinctions; one being the household solar, which is
18 defined differently, and this, which is generation. There are two distinct classes that the law talks about.
19 There are two distinct treatments for them.

20
21 Councilor Vaillancourt questioned if another project were to come forward would the Council still have
22 the option of approving or not approving. Chairman Harrington stated it would not. Councilor
23 Vaillancourt asked for clarification, if this project is approved any project coming in after the fact has to
24 be approved. Chairman Harrington stated that to be her understanding; providing it falls in the category
25 of generation.

26
27 Town Manager Cabanel stated the Council would have to approve the reduced tax amount. The project
28 would still be required to go before the Planning Board. Mr. Ware stated the plan requires site plan
29 approval. The intent was not to move forward with the project until understanding whether the Town
30 would support the concept of a pilot. Town Manager Cabanel stated there would be the requirement to
31 accept a 20% value payment for any future projects. Councilor Vaillancourt questioned if an applicant
32 wished to put a project on a piece of land that was deemed as inappropriate, would the Council have the
33 opportunity to deny the request citing the reason as the location. Town Manager Cabanel stated the
34 decision of the Council is not one of zoning. Vice Chairman Mahon stated there are a few steps; one is
35 the site approval, which would either be an issue for the Zoning Board of Adjustment (ZBA), depending
36 on the location, and the Planning Board. That is one step. That is where the approval or non-approval
37 would occur for the siting of something on a piece of property in Town.

38
39 Councilor Vaillancourt questioned is it that technically the Town Council is only approving the tax
40 issue, not the project and its location. Vice Chairman Mahon stated that to be correct, and added once
41 the Council issues a pilot anyone else coming before the Council with a generation project would have
42 to be offered similar terms.

43
44 Councilor Dwyer questioned what benefit the proposal would bring to Merrimack. Mr. Ware stated
45 there are three basic things; \$121,000 payment for current use penalty tax, an additional nearly
46 \$10,000/year in property taxes, and support of sustainable energy; a project that, with help from local
47 government, State government, and the current market, makes sense economically for customers some
48 of which are in Merrimack.

1 Councilor Dwyer spoke of the amount of voltage the field would produce, and questioned if it would be
2 powerful enough to be running pumps and motors or more for the facility for lights, computers, etc. Mr.
3 Ware stated it would produce about 900 kilowatt hours per hour if the sun is bright and shining. The
4 projected production over a period of a year is 1.5 million kilowatt hours. When asked if that is enough
5 to run the pumps, Mr. Ware responded at times it would run the pumps. The plant uses about 4.5
6 kilowatt hours/year of power. It will produce about 33% of the plant's requirements.

7
8 Councilor Rothhaus commented he recognizes the difficulties in making something like this work. The
9 place he would imagine something like this would normally be seen is an industrial zone. He spoke of
10 the town being very limited in its commercial/industrial space. Taking it out and allowing a 15%
11 payment as opposed to what the property would normally bring in for property tax revenues is his
12 concern. Listening to the comments made earlier, it appears unlikely another project would find such a
13 venture financially feasible.

14 Councilor Koenig stated he did not have a clear enough understanding of the payment in lieu. He
15 questioned, if granted, does that require the Council to grant future projects for anyone requesting such a
16 project under any circumstances. He questioned if some restrictions could be made, e.g., placed on
17 watershed land, 500' from the borders, only using 25% of property, etc., and questioned if those kinds of
18 restrictions could be identified, and stated as the criteria under which the Council would provide
19 approval so that future projects would have to meet the same conditions.

20
21 Town Manager Cabanel stated RSA 72:74, V states: "If a municipality enters into a voluntary payment
22 in lieu of taxes agreement with an owner, or a lessee responsible for payment of taxes, of a renewable
23 generation facility, the municipality, upon the request of the owner, or a lessee responsible for payment
24 of taxes, of any other renewable generation facility located within the municipality, shall offer a
25 comparable agreement to the owner or lessee of such facility."

26
27 Councilor Koenig questioned if the agreement could include limitations or distinctions on how much of
28 the property is covered, etc. Town Manager Cabanel responded she does not believe so. Vice Chairman
29 Mahon stated that is not known. Councilor Dwyer remarked that would likely fall under the site
30 evaluation or the Planning Board or ZBA questions, but it is the money and the formula that must be
31 equal treatment is how he would interpret it. That being said, with the deadline and credits vanishing
32 soon you have to wonder if there would be another one coming down the pike soon.

33
34 Director Thompson remarked relative to the role of the Planning Board and the Town in terms of
35 Zoning, under RSA 672:1, which is the general provisions for municipal land use regulation, 672:1, III-a
36 reads: "Proper regulations encourage energy efficient patterns of development, the use of solar energy,
37 including adequate access to direct sunlight for solar energy uses, and the use of other renewable forms
38 of energy, and energy conservation. Therefore, the installation of solar, wind, or other renewable energy
39 systems or the building of structures that facilitate the collection of renewable energy shall not be
40 unreasonably limited by use of municipal zoning powers or by the unreasonable interpretation of such
41 powers except where necessary to protect the public health, safety, and welfare;"

42
43 In essence, the State has limited the municipality's ability to use zoning to control these types of
44 facilities. Regardless of zone in Town, if someone were to come forward with this type of facility it
45 would have to be considered permitted under our Ordinance.

46
47 Councilor Rothhaus questioned if that would be the case in a residential neighborhood, and was
48 informed it would. Chairman Harrington stated her concern to be the setting of precedent; it is giving
49 blanket approval for all future projects. She suggested it may be necessary for the Council to conduct

1 further research whether that be sought from legal counsel or the ZBA and/or Planning Board. She
2 stated she was not prepared to approve something where she did not fully understand the potential future
3 implications.

4
5 Councilor Koenig stated his appreciation for the responses, and asked for clarification of how the 15%
6 number was derived. Mr. Ware spoke of a formula that identifies plant usage, current cost of electricity,
7 and assumptions behind the number, noting property taxes is one of the figures (as you adjust property
8 taxes that is a driver to the annualized cost for the power). He remarked you have to keep in mind you
9 are producing 1.5 million kilowatt hours. If paying on a full \$3 million valuation that would be about
10 \$75,000/year or about \$.05 a kilowatt hour. As that comes down progressively that is what starts to
11 make it attractive. You have a fixed amount of power, that 1.5 million kilowatts. As property taxes go
12 up you are adding a cost per kilowatt hour to it.

13
14 Councilor Koenig stated the desire to understand the \$3 million valuation number. Mr. Ware responded
15 when they went out and sought proposals they sought them in two ways; one to be if Pennichuck were
16 the owner and a contractor came in and built the facility to be maintained and operated by Pennichuck.
17 Because they have no tax appetite, could not use the Federal tax benefit, the power purchase agreement
18 was the only one that worked out. A price was provided per kilowatt hour assuming Pennichuck paid
19 the local property taxes, bought all of the power from them, and provided them the land at \$1. That is
20 one of the things that makes this unique is that anybody else who builds, would not find land for \$1.
21 This is 12.5 acres, which would add another 33% to the cost of any project that goes of this magnitude
22 just to purchase the land.

23
24 Councilor Koenig reiterated he is not clear on the \$3 million figure. Mr. Ware responded they are
25 saying the cost of building the facility would be about \$2.2 million and then add in the value of the land;
26 some place between \$800,000 and \$1 million. He used \$3 million. Councilor Koenig remarked the
27 annual income from power generated times 8-15 years, whatever number used for valuation, and
28 questioned if that even comes close to \$3 million or does it really say this is not a practical thing to build
29 from a business perspective. Mr. Ware responded, from a business perspective what we are comparing
30 is our expenses. Our expenses in this case would be the property taxes and purchasing the power from
31 the power purchase provider as opposed to from the grid.

32
33 Currently Pennichuck is buying power from the grid from the supply generation side. You are also
34 avoiding the transmission cost in this case, at a rate of about 12.2 cents/kilowatt hour. If you can buy
35 from the power purchase provider at something less than that and then take the property taxes and divide
36 the 1.5 million kilowatt hours into that you will end up with the cost per kilowatt hour for that 1.5
37 million kilowatt hours. That is what they are looking at for comparison purposes.

38
39 Councilor Koenig remarked you are saying it will cost \$3 million to build and equip this based on land,
40 etc. Is the Assessor going to come in, not knowing anything about what it cost you to buy it, and just
41 say the value of that property with that plant on it is \$3 million or are they going to say it is the revenue
42 of the plant times 8 or 10 or something like that? They are going to look at the income generation
43 potential of the building to create the valuation not necessarily what it cost you to build it.

44
45 Mr. Ware remarked valuation in this case, he believes, would not be an income approach but an asset
46 approach. It could be an income approach. All they could do was make an assumption. Ultimately
47 there is risk for Pennichuck should someone come in and say they think it is worth \$5 million, they
48 proceed and pay a 15% pilot on that. They believe the valuation is about \$3 million based on other
49 communities. The Town of Peterborough built a facility similar in size, etc. When asked if it was

1 valued or a pilot, Mr. Ware stated Peterborough was the owner. Councilor Koenig remarked that is not
2 a comparable measurement of the value. He stated his preference to see it valued at \$2 million and take
3 25-30% pilot instead of \$3 million and 15%. He stated a desire to gain a real understanding of how you
4 would value, and his guess is it would be based on the value of the property not on the asset because
5 the asset has no value if you look at it from an income perspective of a business.

6
7 Councilor Dwyer questioned if there is concern the Assessor could come in and says it is worth \$4.5
8 million. Would that not change the model drastically? Is there a legitimate fear on the company's part
9 that the site might be valued higher? Mr. Ware stated it to be a risk. He remarked they have had a
10 preliminary valuation done. Valuations are based on comparables, and also, in this case, as a utility they
11 are valued by the State. They pay taxes to the Town for the pipes that feed Anheuser Busch and into the
12 area, and that valuation is based on a replacement cost, new less depreciation valuation. They look at
13 the pipes and say what would they cost to put in today and how much depreciation has occurred. That is
14 the method of valuing utility property. It used to be original cost less depreciation, which was an
15 income approach like what Councilor Koenig suggested. That would result in a substantially less value.
16 If you look at the method of valuing utilities; right now the State values 95% replacement cost new less
17 depreciation. They are looking at the actual cost to construct the asset in today's dollars less
18 depreciation on the asset. Solar cells depreciate very slowly; about 7/10 of a percent loss in efficiency
19 per year. Over the 20 years they will lose about 14% of their efficiency hence their value.

20
21 Chairman Harrington stated the main question to be whether the Council is willing to accept the option
22 of payment in lieu of taxes. Vice Chairman Mahon remarked RSA 72:74 II states in part: "A renewable
23 generation facility subject to a voluntary agreement to make a payment in lieu of taxes under this section
24 shall be subject to the laws governing the utility property tax under RSA 83-F." RSA 72:74 VI reads in
25 part: "no voluntary agreement entered into under this section shall be valid for more than 5 years". This
26 would be considered again in five years.

27
28 Vice Chairman Mahon remarked the issue is complex, and more than he believes the Council should
29 undertake on its own in a single meeting. He questioned the timeline associated with the proposed
30 project. Mr. Ware stated the timeline to be driven by the PUC. The PUC contacted Pennichuck in early
31 March and said we want to work out a contract with you and again in early April stating they had a
32 contract, and a decision needs to be made by April 29th. He does not believe there to be time to properly
33 digest the proposal. He stated understanding of the Council's hesitance, and suggested it to be a case
34 where they should just assume shutter the doors and look and to see where this is in a year or two. It is
35 something Pennichuck will continue to revisit. He remarked perhaps the 30% tax credit will continue
36 on. Efficiency of solar cells is sort of bottoming out, and there will likely not be a lot of reduction in
37 cost there, but what will happen to electrical cost? An ongoing discussion of the Council could have a
38 great impact on that.

39
40 Mr. Ware stated this started with the Board's interest and a lot of promotion by NHDES and the EPA to
41 the fact that wastewater and water treatment plants are some of the largest energy users in the country.
42 Water utilities typically have a lot of land because they own watersheds. You can have the land at
43 essentially very low cost in order to construct a large field. They have encouraged that and said it is the
44 compatible use. Pennichuck investigated it. From their perspective it is about a right decision for the
45 customers. They will not make a decision for their customers that says we should do this and it will cost
46 you \$20,000 more a year for electricity but that is good because we are building a sustainable
47 infrastructure; it has to work economically. By the same token, a lot of valid concerns have been raised
48 by the Council, and unfortunately Pennichuck was given a very limiting timeframe. The grant

1 application was submitted back in October and they basically got the go ahead some 3-4 weeks ago. He
2 had hoped there would be more time, but there is not.

3
4 Councilor Dwyer suggested the formation of an Ad Hoc committee of the Council that could meet with
5 Mr. Ware to discuss the matter in more depth. Mr. Ware stated Stephen Eckberg, Analyst, NH PUC, is
6 the one who provided him with the deadline of April 29th, and then there was a caveat there may be a
7 little extra time. They are hoping to go to the Governor and Council with a recommendation. He stated
8 his belief they have to provide information by May 5th to be included for the end of May meeting. Their
9 concern is the availability of funding. They want to get it committed before it is gone.

10
11 Mr. Ware stated a willingness to meet with members of the Council. Councilor Dwyer reiterated
12 although the decision would have to be made by the Council, an Ad Hoc committee of the Council or
13 even a single member of the Council with the support of staff could meet to iron out some of the details,
14 and bring the issue back before the Council. Chairman Harrington acknowledged the need for a more in
15 depth discussion and a greater amount of information provided to the Council. However, stated a
16 concern with the available timeline. Councilor Dwyer suggested the committee meet next week and
17 come back before the Board on May 14th. If the timeline doesn't work out then it wasn't in the cards.

18
19 Town Manager Cabanel remarked she is not confident she can identify a source that could provide
20 additional information regarding potential implications in such a short period of time.

21
22 Councilor Koenig reiterated his opinion the proposal is a great idea, and he is excited about the
23 possibility of something like that. He believes that use of the land is great, taking it out of current use
24 and giving it a little bit more value is a great thing. His only concern is the 15% number and 15% of
25 what relative to turning around and giving that same offer to anybody else that comes along. He
26 remarked he does not think there is a great chance of someone coming along wanting to take a massive
27 chunk of industrial property and turn it into a solar farm. Councilor Rothhaus remarked it was stated
28 any type of property could be utilized for such a facility.

29
30 Councilor Koenig commented if the Council could be provided a better understanding of the
31 implications and have a stronger feeling of what the valuation could be he would be more comfortable.

32
33 Councilor Dwyer remarked the comments made and questions posed by Councilor Koenig were not
34 lengthy, and he does not see them requiring a great deal of time to address. Chairman Harrington
35 reiterated a concern with the timeline. Councilor Dwyer suggested the Council gamble with the
36 timeline; provide a response when one can be provided and if the dates are extended then it is in
37 everyone's benefit, and if the timeline has passed, at least we gave it the best shot we could. Mr. Ware
38 stated he could contact the PUC the following morning and notify them some sort of decision could be
39 made by May 15th. If that doesn't work for them then there is no sense spending any time on it.

40
41 From a valuation perspective, Mr. Ware suggested the State Department of Revenue Analysis, which is
42 responsible for the implementation of RSA 83-F could probably provide a valuation. Councilor
43 Vaillancourt stated she is pleased with the idea of not saying no outright at this time, but instead looking
44 to see if additional information can be obtained within the timeframe and the possibility of it working.

45
46 Vice Chairman Mahon noted the Chairman could always call a special meeting.

47
48 **MOTION made by Councilor Dwyer and seconded by Councilor Boyd to table the item until the**
49 **Council's May 14, 2015 meeting**

1
2 **ON THE QUESTION**
3

4 Chairman Harrington noted Councilors Dwyer, Boyd, and Rothhaus would sit on an Ad Hoc
5 Committee. Vice Chairman Mahon stated the need for meetings to be posted, minutes taken, etc. in
6 accordance with the Right-to-Know Law.

7 **MOTION CARRIED 7-0-0**
8

9 Councilor Dwyer suggested Assistant Town Manager Micali and Director Thompson participate in the
10 committee. Councilor Dwyer commented the intent had been for staff to actively participate. Vice
11 Chairman Mahon suggested the Town of Peterborough be contacted and asked about the analysis that
12 town went through.
13

14 Mr. Ware stated his appreciation of the Council's time and consideration, and stated he would follow up
15 with the PUC the following day, and notify the Town Manager of the response received.
16

17 **5. NRPC Route Bicycle and Pedestrian Corridor Plan Proposal**

18 *Submitted by Assistant Planner Donna Pohli*

19 To ask the Town Council to accept and authorize NRPC's proposal dated January 22nd, 2015. This
20 proposal does not require any additional funding and would help the Bicycle and Pedestrian Master
21 Plan Work Group with implementation of the adopted 2014 Master Plan Update.
22

23 Donna Pohli, Assistant Planner, stated receipt of the proposal from the NRPC was due to the Town's
24 Master Plan, which was updated in January, 2014 and included several action steps regarding bicycle
25 and pedestrian travel. The Town also received a letter from the NH Department of Transportation
26 (NHDOT) a few months before the Master Plan was adopted in response to a project in their jurisdiction
27 on the D.W. Highway for which the Planning Board had required a sidewalk, which is a typical
28 requirement in the site Plan and Subdivision Regulations.
29

30 The NHDOT has stated support of sidewalks in their jurisdiction; however, not until there is a plan for
31 Route 3. A Sub-Committee of the Planning Board was established and has begun working on the
32 establishment of a procedure for inventory, identifying the gaps in sidewalks, and determining if there is
33 a need for additional sidewalks. The NRPC provided a proposal to assist in this process. There is no
34 additional cost associated with the proposal as the work would be considered one of the services
35 provided as part of the Town's membership within the NRPC.
36

37 Desirea Falt, Member, Planning Board, stated the request to be for approval by the Town Council to
38 proceed with the NRPC proposal to get the first phase completed to unlock the D.W. Highway corridor
39 for potential sidewalk development. She noted there were holdups on some projects coming through
40 there as a result of the NHDOT stating approval would not be provided piecemeal until a complete plan
41 is in place.
42

43 When asked for clarification, Ms. Falt stated the concern on the part of the NHDOT is with their Right-
44 of-Way. If a project were approved and included a sidewalk to be constructed on private property the
45 only control NHDOT would have is over the entrances and curb cuts onto their Right-of-Way.
46

47 Town Manager Cabanel spoke of having prior experience with sidewalks on another Route 3, and the
48 State requiring an agreement be signed that the sidewalks would be maintained and kept free of snow.
49 Vice Chairman Mahon stated those agreements are already in place. The State Supreme Court, back in

Becky Thompson

From: Ware, Don <dona1d.ware@PENNICHUCK.com>
Sent: Tuesday, March 31, 2015 3:27 PM
To: Eileen Cabanel
Cc: Patenaude, John
Subject: Solar Field PILOT

Good Morning Eileen:

Spring is around the corner and hopefully the Town is digging out from the ugly winter. I am checking in to see where you might be regarding a discussion with the Town Selectman in regards to whether they would consider a PILOT for the 1 MegaWatt solar field that Pennichuck is considering constructing in Merrimack across from its water treatment plant. Pennichuck needs to make a go/no go decision on this project by the end of May. The willingness of the Town to allow Pennichuck to make a PILOT is a key decision point regarding whether solar field is a viable project. Some points to consider from the Town's perspective as to why it might consider a PILOT for the Pennichuck Solar Field are as follows:

1. The parcel of land where the 12.5 acre solar field would be located is currently held in current use. The Town would receive the current use penalty tax if the land was used for the solar array.
2. The parcel of land where the solar field is proposed is within the watershed to the Pennichuck Brook water supply. As watershed land it will remain undeveloped if the solar field is not built. The solar field is the only acceptable type of development that can happen within this watershed on Company land.
3. The solar project is not cost effective if Pennichuck must pay property taxes on the projected solar field's value (land and equipment) of about \$3,000,000. The cost of electricity from the solar field will only be equal to Pennichuck's electric costs of power from the grid if Pennichuck can make a PILOT to the Town based on a valuation of \$500,000 or less. If the solar field will not save Pennichuck's customers electrical operating costs that project will not be completed.
4. This is a potential win-win for the Town in Pennichuck if the Town will consider a PILOT for the following reasons:
 - a. The Town will get the current use tax penalty payment it would not get if this project is not constructed.
 - b. The Town will get increased annual payments in the form of a PILOT (based on a \$500,000 or less property value) which will be significantly more than the current annual real estate property tax payment made by Pennichuck for this property under current use.
 - c. The Town can promote its support of sustainable technology if it desires to.
 - d. Pennichuck's customers will gain electric rate stability for about 25% of its energy needs.
 - e. Pennichuck will be moving toward a sustainable energy supply as promoted by the Environmental Protection Agency.

Thank you for your time and consideration in this matter. As we discussed, Pennichuck is available to come to the Town, at its convenience, to discuss this project further should the Town need further information or want to open further dialogue on the proposed solar field.

I look forward to hearing from you.

Have a good afternoon.

Donald L. Ware, PE
Chief Operating Officer
Pennichuck Corporation
25 Manchester Street

Town of Merrimack
Town Clerk/Tax Collector
6 Baboosic Lake Road
Merrimack, NH 03054



SOUTHWOOD CORPORATION (THE)
PO BOX 1947
25 MANCHESTER ST
MERRIMACK, NH 03054

2014 MERRIMACK PROPERTY TAX -- BILL 1 OF 2

Invoice: 2014P01134502
Billing Date: 05/14/2014
Payment Due Date: 07/01/2014
Amount Due: \$ 3,838.00

12% APR Charged After 07/01/2014

Property Owner			
Owner: SOUTHWOOD CORPORATION (THE)			
Tax Rates		Assessments	
County:	\$ 0.59	Taxable Land:	309,661
School:	\$ 7.55	Buildings:	6,700
Town:	\$ 2.65	Total:	316,361
State Education:	\$ 1.17		
Hydrant:	\$ 0.17		

Taxable Land Includes Current Use

Property Description		
Map: 00001D	Lot: 000001	Sub: 000000
Location: MANCHESTER ST Acres: 85.450		
Summary Of Taxes		
First Bill:		\$ 3,838.00

- Abated/Paid: \$ 0.00
- Veteran Credits: \$ 0.00
+ Penalties: \$ 0.00

Amount Due By 07/01/2014: **\$ 3,838.00**

Total Tax Rate: \$ 12.13 * Net Value: 316,361

* First Bill Tax Rate Equals 1/2 Last Year's Final Tax Rate

Mailed To:
SOUTHWOOD CORPORATION (THE)
PO BOX 1947
25 MANCHESTER ST
MERRIMACK, NH 03054

RETURN THIS PORTION WITH PAYMENT
Please see back of bill for payment instructions.
To insure proper credit, please remit bottom
portion of bill when sending payment.

2014 MERRIMACK PROPERTY TAX -- BILL 1 OF 2

Town of Merrimack
Monday - Friday 9:00 am - 4:30 pm
www.merrimacknh.gov
(603) 424-3651
Tax Collector: Diane Trippett
Owner: SOUTHWOOD CORPORATION (THE)

Location: MANCHESTER ST
Map: 00001D Lot: 000001 Sub: 000000
Invoice: 2014P01134502

Amount Due By 07/01/2014: **\$ 3,838.00**

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3. Current Use

Under New Hampshire law, "open space land" must be assessed at its current use value. RSA 79-A:5, I. "Open space land" includes farm land, forest land and unproductive land,³ and in general must be at least 10 acres in size. When land classified as "open space land" is changed to a different use so that it no longer meets the criteria for "open space land," there are two tax consequences:

- a. The landowner is subject to a one-time "land use change tax" under RSA 79-A:7 at the rate of 10% of the "full and true value of the land," payable to the municipality. This tax is different from and additional to real property tax.
- b. The land will be subject to annual real estate tax at its full value going forward.

Land not physically changed, provided that it meets the minimum acreage requirements, will not come out of current use. RSA 79-A:7, V. The change in use is deemed to occur when actual construction begins on the site, including building an access road or grading the site. RSA 79-A:7, IV; Cub 307.01(c)(2). There are no exemptions from the land use change tax - any party holding land that comes out of current use will owe this tax. For purposes of the land use change tax, paid to the municipality in which the property is located, the property is assessed as of the date it comes out of current use. RSA 79-A:7, I. By contrast, for real estate tax purposes, the property is assessed each year as of April 1. RSA 76:2.

We think that development of the solar project will cause the Leased Area to come out of current use. The Leased Area will be subject to the land use change tax

² Determining who the taxpayer would be for purposes of the utility property tax will require further consideration. Solar City will own the equipment, Pennichuck is the "eligible customer-generator" and Southwood owns the land on which the project is situated.

³ "Open space land" does not include property held by a city, town or district for purposes of water supply or flood control, for which a payment in place of taxes is made in accordance with RSA 72:11. Southwood holds the land for purposes of watershed protection, which probably falls within the meaning of "water supply," but we understand that Southwood is paying taxes, not making payments in lieu of taxes, so this provision does not apply.

RATH YOUNG PIGNATELLI

and will be taxed at its full value going forward. The change in value will take effect once construction begins. Those portions of the 85-acre parcel not used for the project (i.e., other than the Leased Area) will remain in current use.

4. Inclusion of the Solar Panels in the Property Valuation

New Hampshire statute provides that all "structures, machinery, dynamos, apparatus, poles, wires and fixtures of all kinds and descriptions, and pipelines employed in the generation, production, supply, distribution, transmission or transportation of electric power ... shall be taxed as real estate." RSA 72:8. New Hampshire cities and towns may, if they choose, adopt exemptions for "solar energy systems," including solar photovoltaic systems that produce electricity. RSA 72:61, 72:62. Some New Hampshire municipalities have adopted exemptions for solar energy systems, but we found no indication that the Town of Merrimack has done so.

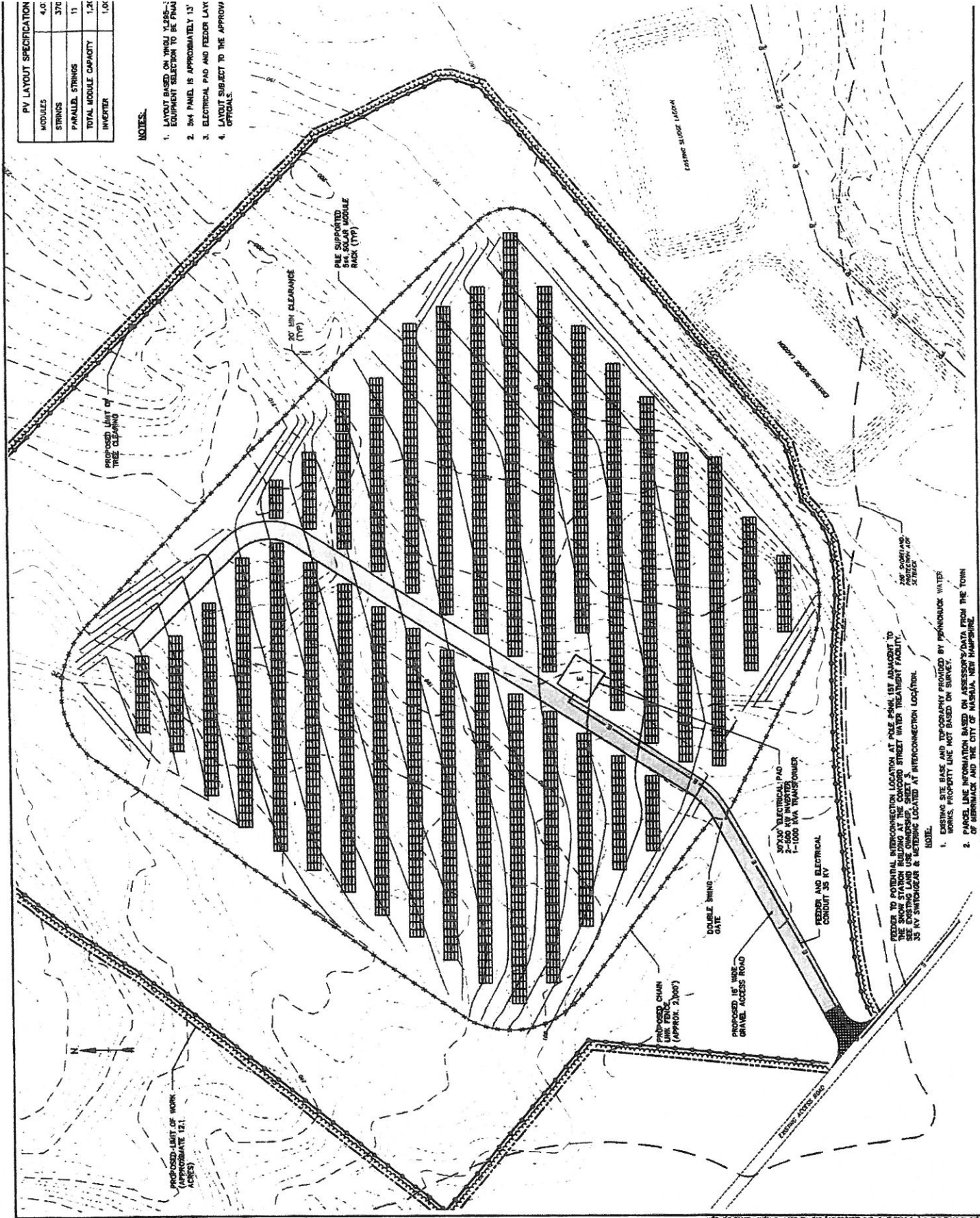
There is an alternative path to limiting tax liability. Under New Hampshire statute, owners of "renewable generation facilities" (including solar photovoltaic projects) and New Hampshire municipalities may also enter into agreements for payment in lieu of taxes ("PILOT Agreements"). Such agreements must be approved by the governing body of the municipality after public hearing, and the municipality will be obligated to offer comparable agreements to owners of any other renewable generation facilities located in the municipality. RSA 72:74, I, V. In the absence of a PILOT Agreement, the renewable generation facility shall be subject to taxation under RSA 72. RSA 72:74, I.

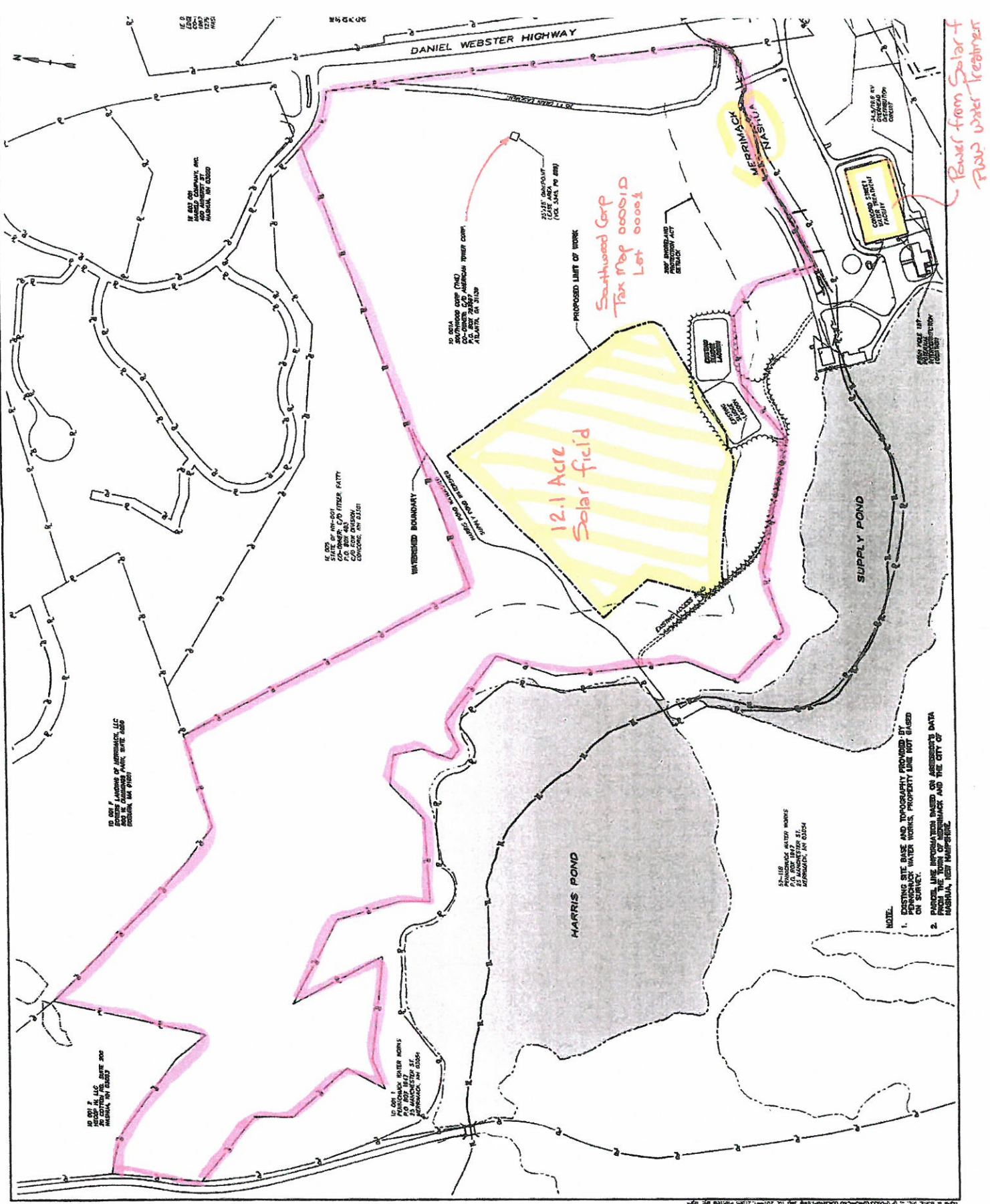
In the first instance, the value of the solar panels will be factored into the valuation of the property. RSA 72:8. The Town of Merrimack could eliminate this factor by enacting an exemption for renewable energy facilities. We suspect this change could only be made pursuant to a warrant article voted on at town meeting. A more practical alternative might be to seek a PILOT Agreement with the Town under RSA 72:74.

PV LAYOUT SPECIFICATION	
MODULES	4.0
STRINGS	370
PARALLEL STRINGS	11
TOTAL MODULE CAPACITY	1.2K
INVERTER	1.0K

NOTES:

1. LAYOUT BASED ON YINGLI YL285-2 EQUIPMENT SELECTION TO BE FINAL
2. 5x4 PANEL IS APPROXIMATELY 13'
3. ELECTRICAL PAD AND FEEDER LAY
4. LAYOUT SUBJECT TO THE APPROVAL OF OFFICIALS.





Power from Solar +
Pump water treatment

